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Inhibits state restriction of liberty or property rights as public welfare. *Coppage v. Kansas* 1

An individual has no inherent right to join a labor union and remain in employ of one unwilling to employ a union man. *Id.*

State may not indirectly strike down rights of liberty or property by invoking police power to remove inequalities resultant from such rights. *Id.*

Liberty and property are co-existent rights recognized by Fourteenth Amendment and are without state interference. *Id.*

Employer and employé have constitutional right to dispense with services and quit service, respectively, on account of affiliation or non-affiliation with labor union. *Id.*

State may place reasonable restraints upon liberty of contract without violating due process provision of Fourteenth Amendment and this includes prescribing methods for compensation of coal miners. *Rail & River Coal Co. v. Ohio Industrial Comm.* 338

Liberty of contract guaranteed by due process clause is free-

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dom from arbitrary restraint, not immunity from reasonable regulation in public interest. <i>Miller v. Wilson</i>	373
Kansas statute of 1909, making it unlawful for employers to coerce, etc., employes not to join or remain members of labor organizations, as applied to this case, held repugnant to due process clause of Fourteenth Amendment. <i>Coppage v. Kansas</i>	1
State may protect established possession of property from disturbance by anything other than process of law. <i>Grant Timber Co. v. Gray</i>	133
Article 55, Code of Practice of Louisiana, relative to right of one sued in possessory action to bring petitory action, is not unconstitutional. <i>Id.</i>	
Judgment without process absolutely void under Constitution and principles of natural justice. <i>Simon v. Southern Ry. Co.</i>	115

FRAUD. See **Judgments and Decrees; Patents.**

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FREEDOM OF SPEECH AND PRESS:

Exhibition of moving pictures a business and not part of press or organ of public opinion within meaning of Ohio constitution. <i>Mutual Film Corp. v. Ohio Industrial Comm.</i> 230, 247	
Ohio moving picture censor act of 1913 not violative of Constitution as abridging freedom of speech. <i>Mutual Film Corp. v. Ohio Industrial Comm.</i>	230
Kansas moving picture censorship act of 1913 does not abridge liberty of opinion. <i>Mutual Film Corp. v. Kansas</i>	248

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Taxes based on ownership of property cannot be enforced against lessee of the property under statutes and leases involved. <i>Wright v. Central of Georgia Ry.</i>	674
Statutes relative to taxation of certain railroads held to make fee exempt from taxation other than that provided for in favor of lessee as well as lessor. <i>Wright v. Central of Georgia Ry.</i>	674
<i>Wright v. Louisville & Nashville R. R.</i>	687

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GOVERNMENTAL POWERS AND FUNCTIONS:

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While legislature declares policy of the law and fixes legal principles to control in given cases, an administrative body may be empowered to ascertain facts and conditions to which such policy and principles applicable. *Mutual Film Corp. v. Ohio Industrial Comm.* 230, 247
 See **Congress; Delegation of Power; President; States.**

GRANTOR AND GRANTEE:

Where corporation organized simply to take title to lands and its first business was to record deeds from owners of practically all of its stock, and there is doubt as to whether they were actually delivered until then, difference in legal personality gives latter no greater rights than former; and fact that third parties held stock of the corporation as collateral for debts of principal stockholder did not alter situation. *Linn & Lane Timber Co. v. United States* 574

HEIRSHIP. See **Indians.**

HEPBURN ACT:

Considerations in construing. See *United States v. Louisville & Nashville R. R. Co.* 318

HOMESTEADS. See **Public Lands.**

HOSPITALS:

Validity of regulation of hours of service of women employed in. See *Bosley v. McLaughlin* 385

HOURS OF LABOR:

Reasonable regulations limiting hours of labor of women are within scope of state legislative action. *Miller v. Wilson* . . . 373

Limit of reasonable exertion of protective authority of State over women not overstepped and liberty of contract unduly abridged by statute prescribing eight hours a day or forty-eight hours a week as maximum of labor. *Miller v. Wilson* 373

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Hours of labor of women employed as pharmacists and student nurses in hospitals is subject to legislative control; and limiting such service to eight hours a day or maximum of forty-eight hours a week is not unconstitutional as denial of due process of law or invasion of liberty of contract. *Bosley v. McLaughlin.* 385

Exception of graduate nurses from operation of statute limiting hours of service of women not so arbitrary, either as

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- to female pharmacists or student nurses in hospitals, as to make statute denial of equal protection of the law. *Id.*
 California statute of 1911, relative to hours of service of women, not unconstitutional either as unwarranted invasion of liberty of contract or as denying equal protection of the law. *Miller v. Wilson* 373
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IMMUNITY OF WITNESSES. See **Criminal Law; Witnesses.**

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INDIANA:

- Safety appliance statute superseded by Federal act so that penalties imposed by former not recoverable as to cars operated on interstate railroads although engaged only in intrastate traffic. *Southern Ry. Co. v. Railroad Comm. of Indiana*. 439

INDIANS:

- Qualification in § 6, act of 1908, removing restrictions upon alienation of allotments to members of Five Civilized Tribes, means Federal, not state, law. *Truskett v. Closser*. 223
 Title under lease made by guardian of Indian minor pursuant to provisions of act of May 27, 1908, held superior to that under lease made by minor after removal of disabilities by state court under state law. *Id.*
 Laws of Oklahoma, continued by Enabling Act, conferring rights of majority on minors, not effective against action of Congress in act of 1908 relative to disposition of allotments of minor members of Five Civilized Tribes. *Id.*
 Under act of May 27, 1908, 35 Stat. 312, probate courts of Oklahoma have jurisdiction over disposition of property of Indian minors, subject to rules and regulations of Secretary of Interior. *Id.*
 Oklahoma courts have held that under § 7 of Original Creek Agreement of 1901, non-citizen husband not to be counted in determining distributive shares for purpose of allotment, but under tribal laws entitled to take as heir of deceased wife allottee. *Reynolds v. Fewell*. 58
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- The construction of an Indian tribal law by the Supreme Court of Oklahoma, while reviewable here, will not be overturned in debatable case when rule has long governed transfers of property. *Reynolds v. Fewell*. 58
- Provision of Supplemental Creek Agreement of 1902 as to law governing descent and distribution of allotments not interpretation but repeal of similar provision in Original Agreement of 1901, without affecting its meaning as to cases governed by it. *Id.*
- Quære* as to ascertainment of heirship of deceased allottee who took under § 28 of Original Creek Agreement. *Shellenbarger v. Fewell*. 68
- Active exercise of Federal authority in suppressing introduction of liquor into Indian country under act of March 1, 1895, held suspended pending exertion of state authority on subject prescribed by Oklahoma Enabling Act. *Joplin Mercantile Co. v. United States*. 531
- Oklahoma Enabling Act did not repeal acts of 1892 and 1897, prohibiting introduction of liquor into Indian country within Oklahoma either as to interstate or intrastate shipments, but as to intrastate transactions made act of 1895 unenforceable. *Id.*
- Construction and sufficiency of indictment for conspiring to introduce liquor into Indian country. *Id.*

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- Construction and sufficiency of indictment for conspiring to introduce liquor into Indian country. *Joplin Mercantile Co. v. United States*. 531

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- Allowance of right to prosecute writ of error from this court *in forma pauperis* subject to judicial discretion as to good faith and merit. *Id.*
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- Section 720, Rev. Stat., does not affect this jurisdiction. *Id.*
- Rule obtains whether case one removed from state court to, or originally commenced in, Federal court. *Id.*
- Judgment by default against foreign corporation in suit based on cause of action arising in another State, where in absence of resident agent service of process was made on Secretary of State under state law, is absolutely void and Federal court may enjoin. *Id.*
- Rule that equity will not enjoin collection of taxes where adequate remedy at law, applied. *Dalton Machine Co. v. Virginia* 699
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- Surety, if answerable at all for interest beyond penalty of bond can only be held for such as accrues from unjustly withholding payment after notice of default. *United States v. United States Fidelity Co.* 512
- Delay of Government in pressing claim against contractor for partial payments received, not waiver of interest. *Id.*

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1. *What constitutes:* Character of commerce tested by actual transaction, not by methods employed, distance between points, or domicile or character of parties. *Kirmeyer v. Kansas* 568
- Character of transaction controlled by substance, not form. *Heyman v. Hays.* 178
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- form of bill of lading determines character of commerce involved. *Illinois Central R. R. v. Louisiana R. R. Comm.*... 157
- Business of taking in one State orders for portraits made in another is interstate commerce, and if original order contemplates option on part of purchaser to have frame also sent from other State, the business is one affair and exempt from license fee in State where sale made. *David v. Virginia* 697
- Section 3 of Act to Regulate must be read in connection with amendments to, and subsequent provisions of, the act, by which term transportation covers entire carriage and services in connection with receipt and delivery of property, including terminal facilities. *Pennsylvania Co. v. United States*. 351
2. *Power of Congress over:* Power of Congress to regulate interstate commerce, when exercised, is exclusive and *ipso facto* supersedes existing state legislation on subject. *Southern Ry. Co. v. Railroad Comm. of Indiana* 439
- Congress may regulate interstate transportation by ferry. *Wilmington Transp. Co. v. California R. R. Comm.* 151
3. *Power of States over:* In absence of action by Congress, State may prevent unreasonable charges for ferriage from point of departure within borders. *Wilmington Transp. Co. v. California R. R. Comm.* 151
- Switching empty cars to and from connection with interstate railroad to side track within terminal of another railroad for purpose of loading with goods intended for interstate commerce, constitutes part of such commerce which Congress has regulated to exclusion of States. *Illinois Central R. R. v. Louisiana R. R. Comm.* 157
4. *Preferences and discriminations:* Section 3 of Act to Regulate forbids any undue or unreasonable preference or advantage in favor of any person, company, firm, corporation or locality; and whether such exists is a question of fact. *Pennsylvania Co. v. United States*. 351
- Prohibitions against unjust discriminations relate to giving preferences by means of consent judgments or waivers of defenses. *Phillips Co. v. Grand Trunk West. Ry.* 662
5. *Reparation:* Measure of damages to shipper is pecuniary loss inflicted upon him as result of giving rebates to other; and such loss must be proved, as to which findings raise presumption. *Meeker & Co. v. Lehigh Valley R. R.* 412
- Allowance of counsel fees under §§ 8, 16, Act to Regulate, is for services in action on award and not those in proceeding

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before Commission. *Meeker & Co. v. Lehigh Valley R. R.* 412, 434

When and to what extent question as to allowance of counsel fees under § 16 of Act to Regulate open in this court. *Meeker & Co. v. Lehigh Valley R. R.* 412

Two reports of Commission in same proceeding, the later affirmatively showing it to be supplemental, read together. *Id.*

Report of Commission holding rate excessive and declaring reasonable rate, and reparation order based thereon, held properly admitted as *prima facie* evidence of facts therein contained in another and identical proceeding between same parties which could have been consolidated. *Meeker v. Lehigh Valley R. R.* 434

Finding of commission in general investigation as to unreasonableness of advance in rate on specified commodity injures to benefit of every shipper who has paid rate and who asserts claim within time fixed by law. *Phillips Co. v. Grand Trunk West. Ry.* 662

Shipper paying charges prior to Hepburn Act and commencing proceedings more than year after passage of act cannot recover on strength of finding of commission as to unreasonableness of rate made in general proceeding to which he was not party. *Id.*

Facts stated in order of reparation by Commission held to sustain award. *Meeker & Co. v. Lehigh Valley R. R.* 412

Objections to portions of reports of Commission awarding reparation waived by failure to direct trial court's attention thereto. *Id.*

Quere, as to responsibility of connecting carrier for reparation before hearing by Commission. *Phillips Co. v. Grand Trunk West. Ry.* 662

Purpose of joint resolution postponing effective date of Act of 1906 was to cause act to speak and operate at end of postponed period as if that time of its passage, giving full year after expiration of extended period for presenting accrued claims. *Meeker & Co. v. Lehigh Valley R. R.* 412

Effect of § 16 of Act to Regulate as amended in 1906 was to extend time for invoking action by Commission on complaints for damages to two years from accrual of claim, but until one year after passage of act as to all claims accruing before its passage: *Meeker & Co. v. Lehigh Valley R. R.*, 412, 434

In amending § 16, Act to Regulate, Congress intended to

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- take all claims, other than those already barred, out of operation of state laws and subject them to uniform limitations of its own creation. *Meeker & Co. v. Lehigh Valley R. R.*..... 412
- Limitations in § 1047, Rev. Stat., do not relate to a liability accruing under §§ 8, 9, 14, 16 of Act to Regulate, but only to suits involving punitive penalties. *Id.*
6. *Burdens on and interference with:* State law interfering with right or act of sending beer from one State to another, or with handling same, conflicts with Constitution. *Kirmeyer v. Kansas.*..... 568
- Selling of liquor under strictly mail order business and delivery within State to carrier for through interstate shipment, beyond control of State. *Heyman v. Hays.*..... 178
- Southern Operating Co. v. Hays:*..... 188
- Moving picture films brought from one State into another subject to police regulation of latter, even before delivery by consignee to exhibitor. *Mutual Film Corp. v. Ohio Industrial Comm.*..... 230, 247
- Where provisions for censorship of moving pictures relate only to films intended for exhibition within State and they are distributed to persons within State for exhibition, there is no burden imposed on interstate commerce. *Id.*
- State may not impose privilege tax on concern doing strictly interstate business because goods within State are capable of use in intrastate business and receive attention within State. *Heyman v. Hays*..... 178
- Southern Operating Co. v. Hays*..... 188
- Scope of protection against state burdens on right to do interstate commerce. *Id.*
- Order of state railroad commission requiring carriers to exchange freight and passengers in accordance with provision of act establishing commission, construed by state court as relating only to intrastate commerce, held not to disregard needs of, or be burden upon, interstate commerce. *Michigan Cent. R. R. v. Michigan Railroad Comm.*..... 615
- Presumption that state court will not so construe and enforce order of railroad commission as to interfere with or obstruct interstate commerce. *Id.*
- State may not exclude from its limits corporation engaged in interstate commerce. *Heyman v. Hays.*..... 178
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- In absence of action by Congress, State may exercise reasonable authority as to matters of interstate or foreign commerce which are distinctly local in character. *Wilmington Transp. Co. v. California R. R. Comm.* 151
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- Order 295 of Louisiana Railroad Commission, relative to switching cars between connecting carriers and conformity to rates established, held burden upon and attempt to regulate interstate commerce. *Illinois Central R. R. v. Louisiana R. R. Comm.* 157
- Kansas moving picture censorship act of 1913 does not interfere with interstate commerce. *Mutual Film Corp. v. Kansas*. 248
- Ohio moving picture censor act of 1913 not violative of Constitution as burden on interstate commerce. *Mutual Film Corp. v. Ohio Industrial Comm.* 230
7. *Tariffs, conclusiveness of:* Amount to which liability of carrier limited and additional rate for additional liability must be stated in filed tariff and equally applicable. *Pierce Co. v. Wells, Fargo & Co.* 278
- Legality of contract for limited liability depends upon acceptance of parties and upon filed tariff and requirement of shipper to take notice and be bound thereby. *Id.*
- Rule that conclusiveness of filed tariff rates does not relate to attempted fraudulent acts or billings, not applicable where transaction open and above board, character of goods known to both parties, and shipper competent to agree. *Id.*
8. *Passes:* Permission given to carriers subject to Act to Regulate to interchange passes includes interchange between those subject and those not subject to act. *United States v. Erie R. R. Co.* 259
- Exchange of passes between carriers justified. *Id.*
9. *Inspection of accounts, etc., of carriers:* Section 12 of Act to Regulate does not make provision for inspection of accounts and correspondence of carriers authorized by Commission; that feature being added by Hepburn Act amending § 20. *United States v. Louisville & Nashville R. R. Co.* 318
- Section 20 of Act to Regulate does not provide for compulsory inspection of correspondence of carriers, but is limited to accounts, including records, documents and memoranda. *Id.*

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Right of inspection of what included within § 20 of Act to Regulate, as amended by Hepburn Act, includes accounts, etc., kept and made prior to latter act. *Id.*

10. *Original Package Doctrine*: Original package doctrine does not extend to moving picture films transported, delivered and used as in this case. *Mutual Film Corp. v. Ohio Industrial Comm.* 230, 247

As to character of packages in which goods transported. See *Kirmeyer v. Kansas*. 568

11. *Wilson Act, application of*: Transportation is not complete until delivery to consignee or expiration of reasonable time therefor, and prior thereto Wilson Act not applicable. *Kirmeyer v. Kansas* 568

12. *Generally*: In construing Hepburn Act, history of origin and report of Commission recommending passage may be referred to. *United States v. Louisville & Nashville R. R. Co.* 318

Principles governing the operation of the commerce clause of the Constitution. *Heyman v. Hays*. 178

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Where shipper has paid full freight charges computed on full weight of shipment equalling minimum capacity of cars applied for and permitted for the class of traffic by the filed tariff, he cannot afterwards be compelled to pay an excess on recomputation of charges based on minimum capacity of larger cars supplied by the carrier on account of shortage of the size applied for, all parties having acted in good faith; and failure to show that carrier did not comply with rules in regard to noting fact that smaller cars were supplied for its own convenience, does not require shipper to pay charges on marked capacity of the cars actually used. *St. Louis S. W. Ry. v. Spring River Stone Co.* 718

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2. *Orders within jurisdiction*: Commission may make such orders relative to terminal facilities as will prevent creation

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- of monopolies within prohibitions and limitations of Anti-trust Act. *Pennsylvania Co. v. United States* 351
- Jurisdiction exists to require interstate carrier to receive and transport over its terminals carload interstate freight from one carrier having physical connection with its lines on same terms as applied to other connecting carriers similarly situated; and such an order is not unconstitutional. *Id.*
- Order of Commission requiring interstate carrier to receive and transport over its terminals carload interstate freight from one carrier having physical connection with its lines on same terms on which it performs such service for other connecting carriers similarly situated, is regulation of terminal facilities within power properly delegated by Congress. *Id.*
3. *Awards of reparation*: Under § 16 of Act to Regulate, as amended in 1906, report awarding reparation need not state evidential facts, but must contain findings of ultimate facts, which are taken as *prima facie* true. *Meeker & Co. v. Lehigh Valley R. R.* 412
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- Construction and sufficiency of indictment for conspiring to introduce liquor into Indian country. *Id.*
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- Quere*, whether act of foreign corporation against whom judgment entered amounted to doing business within state. *Id.*
- Judgment by default against foreign corporation in suit based on cause of action arising in another State, where in absence of resident agent service of process was made on Secretary of State under state law, is absolutely void and Federal court may enjoin. *Id.*
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Statute of United States, general in application but declared unconstitutional except as it relates to District of Columbia and Territories, is not a law of the United States within meaning of cl. 6, § 250, Judicial Code. *Id.*

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- Kansas statute of 1909, making it unlawful for employers to coerce, etc., employes not to join or remain members of labor organizations, as applied to this case, held repugnant to due process clause of Fourteenth Amendment. *Coppage v. Kansas* . . . 1

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- State may not indirectly strike down rights of liberty or property by invoking police power to remove inequalities resultant from such rights. *Id.*
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- An individual has no inherent right to join a labor union and remain in employ of one unwilling to employ a union man. *Id.*
- Employers and employes and labor organizations bound by one rule of liberty. *Id.*
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- Where secret transfer of wrongfully held land is made through medium of corporation for purpose of busying United States with wrong person until statute has run, service on such person held to avoid statute. *Id.*
- Purpose of joint resolution postponing effective date of Commerce Act of 1906 was to cause act to speak and operate at end of postponed period as if that time of its passage, giving full year after expiration of extended period for presenting accrued claims. *Meeker & Co. v. Lehigh Valley R. R.* . . . 412
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- In amending § 16, Act to Regulate Commerce, Congress intended to take all claims, other than those already barred, out of operation of state laws and subject them to uniform limitations of its own creation. *Meeker & Co. v. Lehigh Valley R. R.* 412
- Limitations in § 1047, Rev. Stat., do not relate to a liability accruing under §§ 8, 9, 14, 16 of Act to Regulate Commerce, but only to suits involving punitive penalties. *Id.*

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An individual has no inherent right to join a labor union and remain in employ of one unwilling to employ a union man. *Id.*
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Exhibition of moving pictures a business and not part of press or organ of public opinion within meaning of Ohio constitution. *Mutual Film Corp. v. Ohio Industrial Comm.* 230, 247
Moving picture films brought from one State into another subject to police regulation of latter, even before delivery by consignee to exhibitor. *Id.*

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Original package doctrine does not extend to moving picture films transported, delivered and used as in this case. *Id.*

Where provisions for censorship of moving pictures relate only to films intended for exhibition within State and they are distributed to persons within State for exhibition, there is no burden imposed on interstate commerce. *Id.*

While general terms of censorship may furnish no exact standard of requirements, they may become certain and useful guides in reasoning and conduct. *Id.*

Quære, whether moving pictures exhibited in other than places of amusement within Ohio censorship statute. *Id.*

Kansas moving picture censorship act of 1913 is valid exercise of police power, does not interfere with interstate commerce, abridge liberty of opinion, or delegate legislative power. *Mutual Film Corp. v. Kansas* 248

Importer of moving pictures without standing to attack state statute penalizing exhibitors or those permitting exhibitions; nor can he enlarge character of police statute by asserting constitutional rights. *Id.*

That an exchange for moving pictures can more conveniently subject films to censorship than exhibitors can does not give non-exhibiting owner of exchange standing to attack statute as to matters which affect only exhibitors. *Id.*

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Ohio moving picture censor act of 1913 not violative of Constitution as depriving of due process of law; as burden on interstate commerce; as abridging freedom of speech; or as delegating legislative authority. *Mutual Film Corp. v. Ohio Industrial Comm.* 230

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Quere, whether statutory provision as to service on foreign corporation by service on Secretary of State is satisfied by service on Assistant Secretary in absence of Secretary. *Id.* Where secret transfer of wrongfully held land is made through medium of corporation for purpose of busying United States with wrong person until statute has run, service on such person held to avoid statute. *Linn & Lane Timber Co. v. United States* 574

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